

The foregoing shall not apply to equipment that has been altered or repaired after shipment to IPSC or to IPSC's agent, by anyone except RJM's authorized employees, and RJM shall not be liable in any event for alterations or repairs except those made with RJM's written consent. The guarantee shall not cover ordinary wear, erosion, corrosion or damage due to overheating or improper handling or storage after shipment to IPSC.

3.3 In the event of stabilizer performance failure as defined below, RJM shall, upon written request from IPSC, within 30 days, refund the purchase price of all (48) stabilizers, excluding costs for engineering. RJM shall not be liable for any special or consequential damages that might occur as the result of stabilizer performance failure as defined below and RJM's liability for such failure shall be limited to the contract price of the stabilizers.

Stabilizer performance failure shall be defined as the occurrence of either or both of the following events:

1. If more than six stabilizers are thermally damaged thru warpage, deformation or deterioration, or plug with ash or slag, such that they fail to perform their intended function within one year of installation provided burners are set, operated and maintained to RJM requirements. If this failure occurs, IPSC will allow RJM to investigate to determine the cause and to verify compliance with operating and maintenance requirements.

2. If Unit 1 fails to meet any of the performance conditions as outlined in Article 2.7 and as determined during the post-installation testing as per Article 2.8. If IPSC fails to perform the performance tests within the time frame allowed in Article 2.8, then the stabilizers will be deemed to have meet the performance requirements of Article 2.7.

3.4 If RJM engineering analysis shows that high temperature materials of construction are needed besides the quoted 310SS, then IPSC will pay the difference in material costs.

3.5 One half of the stabilizers, 12 CCW and 12 CW, shall be delivered to the Intermountain Power Project site by no later than March 30, 1992 for attachment to the burners and remaining half delivered by April 6, 1992.